

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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2006 MAR -7 P 3:40

MUSKET RESEARCH ASSOCIATES, INC.,

Plaintiff,

v.

OVION, INC., WILLIAM S. TREMULIS,
and JEFFREY P. CALLISTER,

Defendants.

OVION, INC.,

Counterclaimant,

v.

MUSKET RESEARCH ASSOCIATES, INC.,
DAVID B. MUSKET, and
SUE ANN LATTERMANN,

Counterdefendants.

No. 05-10416 MEL
U.S. DISTRICT COURT
DISTRICT OF MASS.

PLAINTIFF'S MOTION FOR LEAVE TO FILE A SURREPLY BRIEF

Pursuant to Local Rule 7.1(B)(3), Plaintiff Musket Research Associates, Inc. ("MRA") moves for leave of Court to file the attached Surreply brief and the Supplemental Affidavit of Brooks A. Ames ("Surreply") to Defendants' (collectively, "Ovion") Reply Memorandum in Support of Motion for Summary Judgment ("Reply"). MRA further moves for leave to file additional papers after the March 8th hearing on Ovion's Motion for Summary Judgment. As grounds therefore, MRA states as follows:

1. Ovion filed its motion for summary judgment on January 27.
2. On March 6, over three weeks after receiving MRA's opposition and just two days before the scheduled hearing, Ovion filed its motion for leave to file a reply along with a 35 page reply brief (15 pages over the limit imposed by LR 7.1), five additional affidavits, and over 100 pages of exhibits. Ovion never attempted to meet and confer with MRA about its intent to file this motion and the accompanying reply brief.
3. MRA has filed an opposition to Ovion's motion for leave which has not yet been acted upon.
4. The attached Surreply responds to issues raised by Ovion's untimely Reply opposition and will assist the Court in deciding the motion for summary judgment. But further time is necessary to provide a more complete response.

Respectfully submitted,

MUSKET RESEARCH ASSOCIATES, INC.,
DAVID B. MUSKET and
SUE ANN LATTERMANN
By their attorneys,



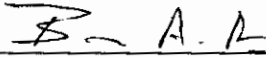
Brooks A. Ames (BBO #641192)
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Dated: March 7, 2006

Rule 7.1 Certification

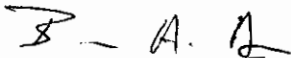
I, Brooks A. Ames, certify that before filing this motion I provided a copy to counsel for the Defendants and Counterclaimant in an attempt to resolve or narrow the issue.



Brooks A. Ames, BBO# 641192

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by electronic mail and U.S. mail on March 7, 2006.



Brooks A. Ames